



## **MEETING MINUTES**

Veterinary Medical Board  
Sacramento, California

**Tuesday, July 19, 2011**  
**3:00 p.m. to 5:00 p.m.**

### **1. Call to Order - Roll Call**

Veterinary Medical Board (Board) President Dr. Stephanie Ferguson called the meeting to order at 3:05 p.m. Board Executive Officer Susan Geranen called roll; all seven members of the Board were present and thus a quorum was established.

#### Board Members Present

Stephanie Ferguson DVM, President  
Tom Kendall, DVM, Vice-President  
Patti Aguiar, Public Member  
Richard Johnson, DVM  
Judie Mancuso, Public Member  
Linda Starr, Public Member  
Kim Williams, RVT

#### Staff Present

Susan Geranen, Executive Officer, Veterinary Medical Board  
Paul Sanchez, Assistant Executive Officer  
Shela Barker, Legal Counsel  
Ethan Mathes, Administrative Programs Coordinator  
Monica Ochoa, Enforcement Coordinator

### **2. Closed Session**

A. Deliberations on Disciplinary Cases (Government Code section 11126(c)(3))

#### AV 2008 25

Stipulated Settlement and Disciplinary Order  
The Board adopted the stipulated settlement and disciplinary order

#### AV 2010 33

Stipulated Settlement and Disciplinary Order  
The Board adopted the stipulated settlement and disciplinary order

#### AV 2011 21

Stipulated Surrender of License and Order  
The Board adopted the stipulated surrender of license and order

#### AV 2009 19

Proposed Decision  
The Board non-adopted the proposed decision

### **Recess**

**Wednesday, July 20, 2011  
9:00 a.m. to 5:00 p.m.**

### **3. Call to Order - Roll Call**

Board President Dr. Ferguson called the meeting to order at 9:05 a.m. Board Executive Officer Ms. Geranen called roll; all seven members of the Board were present and thus a quorum was established.

#### Board Members Present

Stephanie Ferguson DVM, President  
Tom Kendall, DVM, Vice-President  
Patti Aguiar, Public Member  
Richard Johnson, DVM  
Judie Mancuso, Public Member  
Linda Starr, Public Member  
Kim Williams, RVT

#### Staff Present

Susan Geranen, Executive Officer, Veterinary Medical Board  
Paul Sanchez, Assistant Executive Officer  
Shela Barker, Legal Counsel  
Ethan Mathes, Administrative Programs Coordinator  
Monica Ochoa, Enforcement Coordinator  
Liz Parker-Smith, Administrative Analyst

#### Guests Present

Ryan Arnold, Department of Consumer Affairs  
Cindy Collins, Canine Care  
Larry Cowgill, DVM, UC Davis School of Veterinary Medicine  
Nancy Ehrlich, RVT, California Registered Veterinary Technicians Association  
Valerie Fenstermaker, California Veterinary Medical Association  
Ron Kelphe, DVM, California Veterinary Medical Association  
H. Jay Kerr, California Veterinary Medical Association  
Frank La Borte, UC Davis School of Veterinary Medicine  
Pamela Maurer, RVT, California Registered Veterinary Technicians Association  
Peter Mitchell  
Kristi Pawlowski, RVT  
Dan Segna, DVM, California Veterinary Medical Association  
Carl Singer, DVM  
Angie Stamm, DVM

### **4. Approve April 18-20, 2011 Meeting Minutes**

Shela Barker requested minor changes to the Meeting Minutes on page three.

- **Linda Starr motioned and Dr. Tom Kendall seconded the motion to approve the April 18-20, 2011 Meeting Minutes as amended.**
- **The motion carried 7-0.**

### **5. Executive Officer Report**

- A. Board Program Reports

Ms. Geranen reported Senate Bill 697 is now a two-year bill and that staff has received numerous public comments on the Bill. Staff has also added Frequently Asked Questions on the Board website in order to provide clarification and address the public comment questions. The Registered Veterinary Technician Committee (RVTC) met in June for its last time and will sunset due to the passage of Assembly Bill 1980.

Paul Sanchez reported the State hiring freeze has impacted staff and that staffing levels at the Board are at 40% of full staffing. Exemptions have been requested to hire additional personnel. Ms. Geranen noted Executive Office, Budget Office, Agency and Department of Finance's review of the hiring exemption requests has extended the approval processing times of the requests.

Ms. Geranen reported there are now just three hospital inspectors due to one inspector taking a position as an in-house consultant. Dr. Tom Kendall asked about inspection surveys that are turned in to staff. Ms. Geranen responded that the surveys are reviewed and responded to if any issue comes up on the survey. Monica Ochoa reported there were 716 complaints filed for Fiscal Year 2010-2011.

Ms. Geranen noted Dr. Richard Johnson is now serving on the American Association of Veterinary Medical Board's (AAVSB) Registry of Approved Continuing Education Committee (RACE) and Dr. Kendal is serving on the AAVSB's Finance Committee.

## **6. Registered Veterinary Technician Committee Report – Dr. Tom Kendall**

### **A. Report on June 14, 2011 Meeting**

Dr. Kendall reported the RVTC discussed the continued progress of transitioning to the Veterinary Technician National Examination, the development of a California jurisprudence examination, and the work of the radiation subcommittee to update the Radiation Safety Guide. Outstanding issues to be worked on include student exemption and title protection regulations. All outstanding issues from the RVTC's final meeting will be carried forward and addressed by the Multidisciplinary Committee (MDC).

### **B. Review and Consider Adopting Proposed Title Protection Regulations**

Dr. Kendall presented proposed language developed by the RVTC addressing proposed registered veterinary technician title protection language for the Board's review. The RVTC discussed whether to cite specific titles or names as exclusionary and they reviewed the National Association of Veterinary Technicians in America and other state's programs title protection language.

The Board discussed whether "veterinary assistant" has a connotation of providing trained veterinary services and whether defining specific restrictive titles in regulation are harmful to the development of outside training programs that could ultimately benefit the evolution of the profession.

Ms. Barker noted that the term "registration" as used in California indicates a minimum level of education and "certification" indicates a substantial level of training and education. The Board discussed whether to include protected titles in proposed regulatory language and not address what an individual may not be titled. Ms. Barker suggested working with the California Veterinary Medical Association (CVMA) on a statutory change to define minimum training and title and define all others without a minimum level of training as "aides or assistants." The Board discussed the efficacy of making a statutory change to title protections and working on defining clear terms.

- **Dr. Richard Johnson motioned and Dr. Tom Kendall seconded the motion to work with the California Veterinary Medical Association, the California Registered Veterinary Technicians Association and legal counsel to develop language for a statutory change to address registered veterinary technician title protection.**
- **The motion carried 7-0.**

Ms. Barker opined on the need for clarification of registered veterinary technician titles including the use of the word “nurse.”

- **Dr. Richard Johnson motioned and Patti Aguiar seconded the motion for Dr. Tom Kendall and Kim Williams, RVT to work with the California Veterinary Medical Association, the California Registered Veterinary Technicians Association and legal counsel to clarify proposed regulatory language to address title protection.**
- **The motion carried 7-0.**

## **7. Presentation from MAXIMUS on Diversion Program**

Ms. Geranen reported a MAXIMUS representative will present at the January Board meeting.

## **8. Multidisciplinary Advisory Committee Report – Dr. Bill Grant**

- A. Report on June 15, 2011 Meeting
- B. Review and Consider Adopting Proposed Changes to Minimum Standards Regulations Including CCR Section 2037

Dr. Bill Grant reported the MDC reviewed cite and fine guidelines; they will forward more information on this to the Board early next year. They finalized the proposed minimum standards regulation language that had been sent back to the MDC by the Board. The Board reviewed and discussed the proposed changes to minimum standards language. A typo was noted on page 8 for duplicative language.

- **Linda Starr motioned and Judie Mancuso seconded the motion to adopt the proposed minimum standards regulatory language as amended.**
- **The motion carried 7-0.**
- **Linda Starr motioned and Kim Williams, RVT seconded the motion to authorize staff to commence with the regulatory process and schedule a public hearing.**

Ms. Geranen noted the regulatory hearing would likely take place at the Board's October meeting.

- **The motion carried 7-0.**

### **i. Duties of a Managing Licensee**

Dr. Grant reported the MDC discussed language governing the managing licensee and methodology for managing premises. The Board discussed the responsibility of a managing licensee for the conduct of another licensee on the same premise and to remove subsection (5).

- **Judie Mancuso motioned and Patti Aguiar seconded the motion to adopt the proposed duties of a managing licensee language as amended.**

Ms. Barker noted that she would research vicarious liability and draft a memo to clarify liability. The Board discussed the appropriate responsibility of a managing licensee to the premise and other veterinarians on the premise.

- **Judie Mancuso amended the motioned to revise subsection (5) per legal counsel suggested language.**
- **The motion carried 6-1.**

## ii. Vaccination Clinic - Minimum Standards

Dr. Grant reported the MDC discussed vaccination clinics and the practice of offering diagnostic services at the clinics. Once diagnoses are performed, a higher level of responsibility is required in the performance of veterinary medicine. Language was amended to refer to “dangerous drugs” in subsection (12).

- **Linda Starr motioned and Dr. Richard Johnson seconded the motion to adopt the proposed small animal vaccination clinic standards language as amended.**
- **The motion carried 7-0.**

## 9. Presentation from DCA Training Office on Plan for October Strategic Planning

In preparation for the Board’s planned strategic planning meeting in October, Sara Walton from the Department of Consumer Affairs presented on the elements of the Board’s Strategic Plan including its mission, vision, values, goals, and objectives. The Strategic Plan is a three-year plan to ensure the Board’s goals are defined and achievable, but also a working document that can be updated at the Board’s discretion.

## 10. Examination/Licensing Committee Report

- A. Update on North American Veterinary Medical Educational Consortium
- B. Discuss AVMA Accreditation of International Schools

Dr. Kendall reported the North American Veterinary Medical Educational Consortium a preliminary report has been published on its website and among the issues in the report is the lack of designation for English language requirements for international schools. Ms. Geranen added requiring an English language requirement or English proficiency at veterinary schools would require a regulatory amendment and that this issue could be brought up at the future strategic planning meeting. The Board agreed.

## 11. Administrative Committee Report

- A. Review Budget, Revenue and Expenditure Projections for 2010/2011

Mr. Sanchez reported cost savings in the budget have been realized due to vacant staff positions and cost savings mandates. Revenue is trending down compared to last Fiscal Year but fee increases in regulation will begin in March 2012.

- B. American Association of Veterinary State Boards
  - i. Appoint Delegate for Annual Conference
  - ii. Bylaws Change Request Update

Ms. Geranen reported the Board has continued to request a designated public and registered veterinary technician member on the AAVSB Board of Directors. There has been some support from other voting delegates and the request is up for vote by the AAVSB Board of Directors at its September meeting. Additionally, the Board needs to appoint a delegate to serve at the AAVSB annual conference.

- **Dr. Richard Johnson motioned and Patti Aguiar seconded the motion to appoint Dr. Tom Kendall to serve as a Veterinary Medical Board Delegate at the American Association of Veterinary State Board’s Annual Conference.**
- **The motion carried 7-0.**

iii. Discuss Amended RACE Standards for CE Approval

Ms. Geranen reported the RACE standards were changed in 2009. Dr. Kendall and Linda Starr reviewed a RACE disapproved continuing education program but could not determine the exact basis upon which the program was disapproved. Ms. Geranen added staff will continue to work with the AAVSB on the changes to RACE standards and the concern that RACE programs are meeting the minimum level of licensure and not a higher level. Staff will forward a request to the RACE Committee to reconsider its RACE program approval standards based on the fact that some continuing education providers are going outside of RACE approval and getting their programs approved by their states.

C. Review Committee Assignments

Ms. Barker reminded the Board that two member committees are not subject to the Open Meetings Act but that three member committees would be subject to the Open Meetings Act and thus not allowed to meet in private. There was no further action taken, the item was for informational purposes only.

**12. Legislation/Regulations Committee Report**

A. Discuss 2010/11 Legislation

i. AB 258 - Rabies Vaccination

Ms. Geranen explained Assembly Bill (AB) 258 would allow for the exemption of certain pets from rabies vaccinations.

ii. SB 103 - State Government Meetings

Ms. Geranen explained Senate Bill (SB) 103 would allow any board member to request a teleconference meeting and that it may make public participation in public meetings more difficult due to this provision. Additionally, closed session items may be more difficult to discuss in the decision making process. The Board requested staff to monitor SB 103.

iii. SB 541 - Expert Consultant Contract Exemption

Ms. Geranen explained SB 541 would provide for certain exemptions in the contracting of Board consultants and subject matter experts.

- **Dr. Tom Kendall motioned and Judie Mancuso seconded the motion for the Board to support Senate Bill 541.**
- **The motion carried 7-0.**

iv. SB 702 - Microchip Implants

Ms. Geranen explained SB 702 would require shelter animals to carry microchip implants and to be paid for by the pet owner.

B. Discuss Pet Lovers License Plate

i. AB 610 - License Plate

Ms. Starr reported that she and Ms. Geranen testified before the Legislature in support of AB 610. Judie Mancuso added AB 610 passed the Assembly but there were questions in the Senate Transportation Committee and it was resolved that a pilot program would be initiated. The new requirements for the specialty license plate will be 2,500 preordered plates and the payment of DMV costs.

## ii. Proposed Regulations

Ms. Geranen reported the proposed regulations regarding specialty license plates were drafted based on discussions at previous Board meetings. If the pilot program is approved the Board could be given authority to proceed as soon as January 2012 but that the Board still requires budget appropriation authority and regulations in place. Ms. Mancuso added the nonprofit will actually administer the program and that the nonprofit's board would be monitored by the Board.

The Board discussed whether there could be a conflict of interest between the Board's sponsorship and oversight of the specialty plate program; Department of Motor Vehicles law requires State program sponsorship. Ms. Barker added proposed regulation language may be finished in time for the Board's October meeting.

### C. Discuss 2011/12 Legislation

#### i. SB 697 - Veterinary Practice

Ms. Geranen reported SB 697 has been made a two-year bill due to opposition with the language and it is anticipated that the Bill will move forward in the next legislative cycle.

#### ii. Business and Professions Code Section 4836.1 - Administration of Drugs

Ms. Geranen reported the Board is working with CVMA and California Registered Veterinary Technicians Association on language for the expiring Business and Professions Code section 4836.1.

### D. Review Regulation Calendar

Ms. Geranen noted the regulation calendar will be included in the Board's strategic planning in order to prioritize future rulemaking.

## 13. Enforcement Committee Report

### A. Discuss Need for Legal Opinion and/or Legislative Change on Veterinary Corporations

#### i. Discuss Policy Regarding Legal Opinions Requested by Public

Ms. Geranen explained Board staff occasionally gets requests from the public for legal opinions. Staff or legal counsel do not provide legal opinions to the public but may consider formulating a legal opinion if it benefits the Board's understanding of an issue and would be a benefit to the public. Ms. Barker added that legal counsel's responsibility is to provide legal advice to the Board and its staff only, and that the Board may disclose a legal opinion to the public as long as the opinion was originally provided to the Board.

- **Dr. Richard Johnson motioned and Judie Mancuso seconded the motion to adopt the proposed language regarding Legal Opinions – Requests from Outside Parties as an amendment to the Veterinary Medical Board's Administrative Procedures Manual.**
- **The motion carried 7-0.**

## 14. Agenda Items and Next Meeting Dates

- A. October 17/19, 2011 - San Diego – Strategic Planning Meeting
- B. January 24/25, 2012 – Sacramento
- C. April 24/25, 2012 – Paso Robles or Vicinity
- D. July 24/25, 2012 – Sacramento
- E. October 23/24, 2012 – San Diego

Ms. Geranen reported the MDC meeting has been moved to August 31, 2011 and that the October Board meeting will be a three-day strategic planning meeting. Board business will be on the first day with strategic planning following the next two days.

#### **15. Comments from Public/Outside Agencies/Associations**

**Note:** The board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. (Government Code sections 11125, 11125.7(a)).

Larry Cowgill, DVM, and Frank La Borte, of the UC Davis School of Veterinary Medicine commented on new tools available in veterinary medicine and the delivery of services through telemedicine but that due to restrictions in the Veterinary Medicine Practice Act some of these services cannot be utilized. They requested the Board look into whether UC Davis is exempt from the veterinary-client-patient relationship regulations, and if not, whether the Board could amend the veterinary-client-patient relationship regulations to accommodate telemedicine. Dr. Kendall requested this issue be added to a future Board agenda. Dr. Ferguson directed staff to add this issue to future agenda or discuss at the Board's strategic planning meeting.

Dr. Kendall requested the Board look into responsibility of electronic record keeping and add to the Board's strategic planning meeting agenda.

#### **Adjourn**

- **Linda Starr motioned and Dr. Richard Johnson seconded the motion to adjourn**
- **The motion carried 8-0.**

*The meeting adjourned at 3:10 p.m.*